



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,705	06/27/2003	Mario Spatafora	20022/38497A	7916

4743 7590 07/28/2004

MARSHALL, GERSTEIN & BORUN LLP  
6300 SEARS TOWER  
233 S. WACKER DRIVE  
CHICAGO, IL 60606

EXAMINER

DESAI, HEMANT

ART UNIT PAPER NUMBER

3721

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/607,705

Applicant(s)

SPATAFORA, MARIO

Examiner

Hemant M Desai

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26 and 33-39 is/are rejected.
- 7) ☒ Claim(s) 27-32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 10/145,254.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 26 is rejected under 35 U.S.C. 102(e) as being anticipated by Focke et al. (6463716).

Focke et al. disclose a packing machine comprising a series of operating devices (11-13, fig. 1) supported by the frame (an inherent part of the machine), and a crane (pivot arm 18, fig. 2) for facilitating removal of an operating devices (glue nozzle 14, fig. 2) to move between a work position, and a maintenance position (see col. 2, lines 61-66). Supporting the crane (pivot arm-18 at 19, fig. 2) is an inherent part of the invention.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Focke et al. and White et al. (4972494) and further in view of Berger (6639789).

Focke et al., as mentioned above, disclose all the limitations, except for a user interface unit. However, White et al. teaches an inspection system having a user interface unit (140, display 160, fig. 1) to determine whether the packages meet predetermined standards or should be rejected (see col. 3, lines 16-20). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to having provided user interface unit as taught by White et al. in the packing machine of Focke et al. to determine whether the packages meet predetermined standards or should be rejected.

The packaging machine of Focke et al. as modified by White et al. meets all the limitations, except for the user interface box is supported by an adjustable tubular body. However, Berger teaches an adjustable tubular body (440, 452, 450, 462, 464, 1606, 1608) to support the user interface unit (1600, fig. 2A) so that it can be handled ergonomically and (see col. 2, lines 38-40) and for greater flexibility (see col. 3, lines 1-3). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to having provided the user interface box supported by an adjustable tubular body as taught by Berger in the modified machine of Focke et al. so that it can be handled ergonomically and (see col. 2, lines 38-40) and for greater flexibility.

Regarding claim 34, Berger teaches that the connecting cables (1610, fig. 2A) housed in the tubular body.

Regarding claims 36-37, White et al. teaches a display (160, fig. 1) to display the accumulated data and to permit easy operator monitoring of the overall packaging system (see col. 9, lines 15-18). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to having provided the display as taught by White et al. in the modified machine of Focke et al. to display the accumulated data and to permit easy operator monitoring of the overall packaging system.

5. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Focke et al. in view of White et al. (4972494).

Focke et al., as mentioned above, disclose all the limitations, except for a conveyor for feeding the packets of cigarettes and a control station comprising a television camera and two mirrors to reflect to the camera a complete view of the packets. However, White et al. teaches a conveyor (16, fig. 7) for feeding the packets of cigarettes (18, fig. 7) and control station (14, fig. 7) comprising a television camera (358, fig. 7) and two mirrors (390, 392, fig. 7) to reflect to the camera a complete view of the packets to determine whether the packages meet predetermined standards or should be rejected (see col. 3, lines 16-20). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to having provided the conveyor for feeding the packets of cigarettes and a control station comprising a television camera and two mirrors to reflect to the camera a complete view of the packets as taught by White et al. in the packing machine of Focke et al. to determine whether the packages meet predetermined standards or should be rejected.

***Allowable Subject Matter***

6. Claims 27-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemant M Desai whose telephone number is (703) 308-5830. The examiner can normally be reached on 7:00 AM-5: 30 PM, Mon-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Hemant M. Desai*  
HMD